IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21318 of 2004

Between:

Pandi Srinivasa Rao, S/o. Venkateswarlu,
R/o. Yerrabalem Village, Mangalagiri Mandal, Guntur District.

..... PETITIONER

AND

1 The Regional Joint Commissioner, Endowments Department, Multi

Zone II Tirupathi, Chittoor District.
2 Sri Lakshmi Narasimha Swamy Temple, Mangalagiri, rep by its

Executive Officer, Mangalagiri, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction more particularly one in the nature of writ of MANDAMUS, or any other appropriate writ, declaring the action of the 2nd respondent in conducting re-auction, which is scheduled to be held on 27-11-2004, for lease hold rights for sale of "Jaggery Water' (Panakam) coconuts, Photos, and other pooja Dravyams,at the up hill of Sri Panakala Laxmi Narasimha Swamy, and as well as at the premises of Sri Lakshmi Narasimha Swamy Temple, Mangalagiri, Guntur District, as illegal, arbitrary and contrary to rule 12(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Immovable properties and other rights (other than Agriculture lands) Leases and Licences Rule, 2003, and consequently declare that the 1st respondent has no power to cancel the auction proceedings dt. 21-9-2004.

Counsel for the Petitioner:MR.METTACHANDRA SEKHAR RAO

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court at the admission stage made the following ORDER:

Sri Lakshmi Narasimha Swamy Temple, Mangalagiri conducted a public auction on 21.09.2004 for assignment of leasehold rights for sale of Jaggery water, coconuts, photos and other pooja dravyams for the year 2004-05. The petitioner emerged as the highest bidder for a sum of Rs.4,80,000/-. He claims to have made the requisite deposits as contemplated under the auction notification. His grievance is that without taking any decision on his bid, the respondents have proposed to conduct auction of the same rights on 27.11.2004.

Learned counsel for the petitioner urged several contentions touching the merits and based on the relevant provisions, particularly those in the Rules framed under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') issued in G.O.Ms.No.866 dated 08.08.2003. He submits that the respondents have violated the said provisions and they are attempting to conduct re-auction.

Learned standing counsel for the respondents, on the other hand, submits that the bid offered by the petitioner was found to be too low and in that view of the matter a decision was taken to conduct the auction afresh.

The petitioner proceeded on the footing that his offer was still alive, pending at the stage of approval before the competent authority. However, it has emerged that through proceedings dated 15.10.2004, the first respondent, who is the authority to approve any bids for grant of licences or leases, has refused to approve the bid of the petitioner on the ground that it is too low.

Learned counsel for the petitioner submits that the authority conferred with the power under the Andhra Pradesh Charitable and Hindu Religious Institutions

and Endowments Immovable Properties and other rights (other than Agriculture lands) Leases and Licences Rules, 2003 (for short 'the Rules') to approve the bids exceeding a sum of Rs.1,00,000/- for the temples referred to in Section 6(a) of the Act is the Commissioner and the first respondent has no authority to take a decision in this regard. He has also advanced contentions as to the validity of the notification through which auction is proposed to be held on 27.11.2004.

Under Rule 12 of the Rules, various authorities that are conferred with the power to confirm or reject the leases or licences of different categories of temples are indicated. A perusal of the same discloses that for the categories of temples falling under Section 6(a) of the Act, the first respondent is the authority if the bid amount is below Rs.50,000/-, the Additional Commissioner is the authority where the bid is between Rs.50,000/- and Rs.1,00,000/- and the Commissioner is the authority for any bids over and above Rs.1,00,000/-. The Submission of the learned standing counsel that under Section 9 of the Act, any step taken by the first respondent can be treated as that of the Commissioner, is too difficult to be accepted. When statutory Rules are framed and powers are distributed among the various authorities, any deviation from them cannot be countenanced on the basis of Section 9 of the Act. In fact, Section 9 does nothing more than providing for creation of Regional Joint Commissioners. Their functioning shall, however, be subject to the statutory Rules that may be framed from time to time. Therefore, the rejection of the bid of the petitioner by the first respondent cannot be said to be valid. This Court is not impressed by the other contentions of the learned counsel for the petitioner touching the validity of the second notification.

For the foregoing reasons, the writ petition is disposed of with the following directions:

a. The bid offered by the petitioner in the auction held on 21.09.2004 shall be considered by the Commissioner of Endowments forthwith and the decision taken thereon shall be communicated to the petitioner by 26.11.2004. In case, such a communication is not sent to the petitioner, the auction proposed to be held on 27.11.2004 shall be deferred.

b. If the bid of the petitioner is rejected by the Commissioner and the same is communicated to the petitioner on or before 26.11.2004, it shall be open to the petitioner to participate in the auction to be held on 27.11.2004 without the necessity of making any further deposits or compliance with the other formalities.

c. There shall be no order as to costs.

24.11.2004
Note:Issue CC today
(BO)
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To

1. Two CCs. to the G.P. for Endowments, High Court of A.P.(OUT)
2. Two CD copies.